

***United States Court of Appeals
for the
District of Columbia Circuit***



**TRANSCRIPT OF
RECORD**

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Court of Appeals, District of Columbia

JANUARY TERM, 1902.

No. 1146.

118

No. 9, SPECIAL CALENDAR.

RACHAEL ANN BEALL AND JESSIE H. OELRICH,
APPELLANTS,

vs.

MINNIE B. BIBB.

APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

FILED NOVEMBER 27, 1901.

COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

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In the Court of Appeals of the District of Columbia.

RACHAEL ANN BEALL ET AL., Appellants,
vs.
 MINNIE B. BIBB. } No. 1146.

a Supreme Court of the District of Columbia.

In re VIRGIE LEE DOUGLAS and GRACE KIMBALL DOUGLAS, Infants.
No. 307. *Habeas Corpus*.

UNITED STATES OF AMERICA, { ss :
District of Columbia,

Be it remembered that in the supreme court of the District of Columbia, at the city of Washington, in said District, at the times hereinafter mentioned, the following papers were filed and proceedings had in the above-entitled cause, to wit:

1 *Petition.*

Filed July 2, 1901.

In the Supreme Court of the District of Columbia.

In re VIRGINIA LEE DOUGLAS and GRACE KIMBALL DOUGLAS, In-
fant-. # 307. *Habeas Corpus*.

To the supreme court of the District of Columbia, holding a special term :

The petition of Mrs. Minnie B. Bibb for the writ of *habeas corpus* respectfully represents:

First. That she is a citizen of the United States and a resident of the District of Columbia, and brings this suit as the mother of Virginia Lee Douglas and Grace Kimball Douglas, who were born on the eleventh day of September, A. D. 1890.

That said children were the issue of her first marriage to one John Douglas, now deceased, who left surviving him your petitioner, his widow, and the said two infant children.

That after the death of your petitioner's first husband she remarried, to wit, on the twentieth day of June, A. D. 1897, one Allen H. Bibb, who is a citizen of the United States and a resident of the District of Columbia, with whom she has ever since and now resides and by whom she has one child, a little girl four years of age.

That your petitioner is the owner in fee of house and premises # 250 9 St. S. E., located in the city of Washington, D. C., and is abundantly able, willing, and anxious to provide and care for her two said infant children.

2 Second. That heretofore, to wit, on or about the fifth day of December, A. D. 1889, your petitioner married John Douglas and went to live with complainant's mother, Rachael Ann Beall, and continued to live with her until about November 1, 1893, when the complainant and her husband went to housekeeping, taking with them their two infant children, Virgie Lee Douglas and Grace Kimball Douglas, and said children remained with complainant, their mother, except as to short visits to their grandmother, until the time of the death of her said husband, John Douglas, which occurred July 12, 1894, at Savannah, Georgia; and then, complainant being obliged to go to Savannah in relation to her husband's estate, left her two said infant children with complainant's mother, Rachael Ann Beall, and from time to time paid board for them. Complainant remained in Savannah until September, 1895, when she returned to this city, and took her said two children and went to Baltimore to live, and remained there until November, 1895, when she again returned to Savannah, Georgia, taking one of her said infant children with her and leaving the other with her sister, Mrs. Dryden, which said child was later sent to her; that said complainant remained in Savannah, settling the estate of her said husband, until September, 1898, visiting Washington a few times during that period; that most of the time she was in Savannah her said children were with her, but part of the time they were with her mother in this city.

In September, 1898, when she returned to this city, where she has lived ever since, she found her father very sick, and her father and mother not living together and not having lived together for several years prior thereto, she felt it to be her duty to take care of

3 him in what proved to be his final illness; and during this period of time which continued down to February 17, 1900, when her father died, she permitted her said two infant children to remain with their grandmother, and at the earnest request and solicitation of their grandmother, Rachael Ann Beall, who resides at # 1340 H street N. E., complainant permitted said children to remain and be with their grandmother, who lives in the same house with the complainant's sister, Mrs. Jessie H. Oelrich.

That your petitioner has from time to time had her two said children with her and has visited them in their grandmother's home, and the relations between your petitioner and her said infant children *has* been affectionate, and she has watched over and cared for them with a mother's interest in their welfare, comfort, and training; but recently some controversy having risen between said Rachael Ann Beall, the complainant's mother, and her sister, Jess H. Olerich, and the other heirs in relation to the control, use, and disposal of the rents and revenues from the estate of your petitioner's father, Charles Beall, and in which said controversy the said Rachael Ann

Beall and the said Jessie H. Olerich have undertaken by proceedings in court to remove Catherine V. Dryden, the testatrix named in the will of the said Charles Beall, and in the said controversy your petitioner, believing that her father's directions should be carried out, they have been opposed to each other, and by reason of the said controversy the relations existing between your petitioner and the said Rachael Ann Beall and Jessie H. Olerich have become strained and unpleasant, and the said Rachael Ann Beall and Jessie H. Olerich have refused to allow your petitioner to see, have, or control her said infant children, and though requested by your
petitioner and by her counsel to deliver said infant children
4 to her, they have refused so to do. See copies of letters of her attorney filed herewith and asked to be considered a part hereof.

Your petitioner is reliably informed and advised that said Rachael Ann Beall and Jessie H. Olerich have for some days and weeks past been training said children that in case of any application by your petitioner to obtain possession and control of her said infant children or to take them to her home, they are to rebel against going with your petitioner, and when brought into court they are to insist upon remaining with their said grandmother, and to refuse in every way possible to submit to the control of their mother, your petitioner.

And your petitioner is advised, and therefore says and avers the fact to be, that said persons have told said children that your petitioner will ill-treat, punish, and abuse said children if she can obtain possession of them, and this for the purpose of destroying their love for your petitioner and estranging their affections from her, and thus secure, if possible, the sympathy of the court in case legal proceedings should be taken, and induce the court to permit the children to remain with them.

Your petitioner further respectfully submits that her husband is in business in the city of Washington, and that she and her husband are abundantly able to care and provide for her said two infant children, and that her husband is not only willing, but anxious to keep her said two children at home with them, thus making a little family of three children and themselves.

Your petitioner further says that she lives at #900 C
5 street S. E., in a nice two-story house, in a genteel neighborhood, in the near vicinity of churches and school, and her two children are now at the age when they need the direction and the loving care of a mother; and complainant refers to the affidavit of Catherine Dryden, filed herewith and asked to be considered a part hereof.

Wherefore your petitioner prays that the writ of *habeas corpus* may issue, commanding and requiring said Rachael Ann Beall and Jessie H. Olerich to produce said infant children in court, so that said children may be given to your petitioner, their mother; and your petitioner, as in duty bound, will ever pray.

MINNIE B. BIBB.

Subscribed and sworn to before me this 25th day of June, A. D. 1901.

[SEAL.]

EMORY H. BOGLEY,
Notary Public.

H. B. MOULTON, *Attorney.*

6 Hosea B. Moulton, Washington Loan and Trust building.

WASHINGTON, D. C., *June 21, 1901.*

Mrs. Rachael Ann Beall, # 1340 H St. N. E., city.

DEAR MADAM: On the 14th day of May last I wrote to you requesting you to call at my office at your early convenience, so that I might confer with you in relation to Mrs. Bibb's two infant children, to wit, Virgie Lee Douglas and Grace Kimball Douglas, now stopping with you, but have not seen you nor have I heard from you in relation to the matter.

I now write to request and demand on behalf of Mrs. Bibb that you immediately surrender to her, their mother and the person lawfully entitled to them, her two infant children, now ten years of age, and unless you do so without further delay I shall proceed in the interest of my client as the law may direct.

Hoping that you will promptly surrender the said two children to Mrs. Bibb, and thus save her and yourself embarrassment, I remain,

Very respectfully,

— — —.

(Dictated.) Copy.

7 Hosea B. Moulton, Washington Loan and Trust building.

WASHINGTON, D. C., *June 21, 1901.*

Mrs. Olerich, # 1340 H St. N. E., city.

DEAR MADAM: I have just written to your mother, Mrs. Rachael Ann Beall, on behalf of my client, Mrs. Minnie Bibb, requesting her to surrender to Mrs. Bibb her two infant children, now stopping with you in your house, and I hereby request you, so far as said children are under your control, to surrender said children to Mrs. Bibb, their mother and the person lawfully entitled to their possession.

Very respectfully,

— — —.

Dictated. Copy.

8 DISTRICT OF COLUMBIA, ss:

Personally appeared Mrs. Catherine V. Dryden, who, being sworn in due form of law, deposes and says:

That she is a sister of Mrs. Minnie B. Bibb, the complainant in the petition for the writ of *habeas corpus* to secure possession of her two

infant children, Virgie Lee Douglas and Grace Kimball Douglas, now in the possession of Rachael Ann Beall and Jessie H. Olerich.

That she has heard read the petition subscribed and sworn to by her sister, Mrs. Minnie B. Bibb, and is sure that the facts therein stated are true, and she is able to state from her own personal knowledge that the facts are correctly recited in said petition.

That said children during the absence of Mrs. Bibb from this city have been with me in my home as much as they have with their grandmother, Mrs. Rachael Ann Beall and Jessie H. Olerich; that when they have stopped with me Mrs. Bibb has paid for their board, and that when they have stopped with their grandmother she has also paid their board.

My sister, Mrs. Bibb, is a good, honest, and upright woman and a kind, affectionate, and devoted mother. When her husband died in Savannah, Georgia, it was thought best for the two infant children to remain in Washington, among their friends and relatives, rather than go to Savannah, among strangers and far from friends and relatives.

That Mrs. Bibb hastened back to Washington at the earliest possible moment to look after the interests of her children, but at the earnest request of their grandmother permitted them to remain with her most of the time. Mrs. Bibb is able and in my
9 judgment it is necessary that my sister should have her own children, and it is cruel and wrong in my mother and sister to keep them against her wishes.

I know my sister has visited her two infant children, but for some time past Mrs. Oelrich and their grandmother have refused to let said children visit their mother. I have heard my mother, Mrs. Rachael Ann Beall, and my sister, Mrs. Jessie H. Olerich, say time and time again that Mrs. Bibb should not have her children, and that they would keep them at all hazards.

That Mrs. Bibb, mother of said children, lives in a very nice, genteel house, #900 C St. S. E., in this city; said house contains eight rooms; that it is very nicely and genteelly furnished; she has a piano, library, and other appliances such as are found in the homes of refined and genteel people.

The complainant desires her children to be with her for the purpose of their education, musical culture, and training, and it is essential in the opinion of the witness that they should be at once restored to their mother.

Witness further says that Mrs. Bibb is a woman of education and culture, a graduate of the Spencerian Business college, and her husband, Mr. Bibb, is an upright, industrious, and gentlemanly man, whose place of business is on E St. near 11, in this city, and that they are abundantly able and willing to keep the two said infant children.

That the grandmother, Rachael Ann Beall, is in the vicinity of seventy years of age, infirm both mentally and physically, and certainly ought not to be taxed with the care of these children, and is really incompetent to care for them.

CATHERINE B. DRYDEN.

10 Subscribed and sworn to before me this 28th day of June,
A. D. 1901.

[SEAL.]

EMORY D. BOGLEY,
Notary Public.

Endorsed.

Let this writ issue as prayed, returnable on the 9th day of July,
A. D. 1901, at 10 a. m., before me, at the court-house, Washington
city, D. C.

A. B. HAGNER, *Justice.*

July 2, 1901.

Writ of Habeas Corpus.

Issued July 2, 1901.

DISTRICT OF COLUMBIA, *To wit:*

The President of the United States to Rachael A. Beall and Jessie
H. Olerich, Greeting:

You are hereby commanded to have the bodies of Virgie Lee
Douglass and Grace K. Douglass, detained under your custody, as
it is said, together with the day and cause of their being taken and
detained, by whatever names they may be called in the same, be-
fore the Honorable A. B. Hagner, one of the justices of the supreme
court of the said District, at the United States court-house,
11 Washington city (on the 9th day of July, 1901, at 10 o'clock
a. m.), after the receipt of this writ, to do and receive whatever
shall then and there be considered of in this behalf; and have then
there this writ.

Witness, E. F. Bingham, chief justice of said supreme court, the
2d day of July, 1901.

JOHN R. YOUNG, *Clerk,*
By R. J. MEIGS, JR., *Ass't Clerk.*

Marshal's Return.

Served copy of within writ on Rachael A. Beall and Jessie H.
Olerich, July 2, 1901.

AULICK PALMER, *Marshal.*

Answer to Writ of Habeas Corpus.

Filed July 9, 1901.

In re VIRGIE LEE DOUGLASS and GRACE KIMBALL DOUGLASS,
Infants. No. 307.

Your respondents, in answer to said writ, hereby produce in court
the infants, Virgie Lee Douglass and Grace Kimball Douglass, and,
for cause of detention by them of said infants, say:

That the respondent Rachael Ann Beall is the grandmother

12 of said infants, and the respondent Jess-e H. Olerich the aunt of said infants; that from the time of the birth of the said infants, except for a few months, the said infants have been in the custody of said respondents; that they have taken care of them, supported them, paid all bills for their clothing, and treated them as though they were their children; that the petitioner has taken no interest in them, has furnished nothing for their support, and, except for a short time, has never had said children in her custody.

Your respondents further say that on account of the facts set out in this answer the petitioner has waived all right and claim to said infants, and that said infants are, at the present time, of the age of eleven (11) years of age, and that it is to the best interests of said infants to remain with the persons with whom they have been since their birth.

Respondents, having fully answered, pray to be hence dismissed with costs.

JESSIE OLERICH.
RACHAEL BEALL.

DISTRICT OF COLUMBIA, ss:

Rachael Ann Beall and Jess-e H. Olerich, being first duly sworn, on oath depose and say that they have read over their answer to the writ of *habeas corpus* by them subscribed and know the contents thereof; that the matters and facts therein stated of their own personal knowledge are true, and the matters and facts stated upon information and believe they believe to be true.

JESSIE H. OLERICH.
RACHAEL BEALL.

13 Subscribed and sworn to before me this 9th day of July,
A. D. 1901.

J. R. YOUNG, *Clerk*,
By R. J. MEIGS, JR., *Ass't Cl'k*.

Order Sustaining Writ, &c.

Filed in Open Court July 29, 1901.

In the Supreme Court of the District of Columbia.

In re VIRGIE LEE DOUGLAS and GRACE KIMBALL DOUGLASS,
Infants. No. 307. *Habeas Corpus*.

This cause coming on to be heard upon petition for a writ of *habeas corpus* and the return of the respondents, Rachael Ann Beall and Jessie H. Olerich, and the other papers and testimony offered herein, and the same having been duly heard and after argument by counsel, it is considered that the prayers of the petitioner be granted.

It is therefore this 29th day of July, A. D. 1901, adjudged and

ordered that the petitioner, Minnie B. Bibb, be, and she hereby is, given the possession, care, custody, and control of her said infant children, Virgie Lee Douglas and Grace Kimball Douglass, and the respondents, Rachael Ann Beall and Jessie H. Olerich, are hereby ordered and directed to deliver the said infant children forthwith to the custody and possession of the said petitioner, and it is further ordered that the petitioner recover costs and have execution as at law to collect the same.

By the court:

A. C. BRADLEY, *Justice.*

14

Order Granting Appeal, &c.

Filed in Open Court July 30, 1901.

In the Supreme Court of the District of Columbia.

In re Estate of VIRGIE LEE DOUGLAS and GRACE KIMBALL DOUGLAS.
No. 307.

Counsel for the respondents, Rachael Ann Beall and Jess-e Olerich, having appeared in open court and taken an appeal to the Court of Appeals from the order of the court passed herein upon the 29th day of July, A. D. 1901, and having moved the court for permission to furnish a supersedeas bond upon the appeal from said decree, said motion is hereby granted, and said supersedeas bond is hereby fixed in the penal sum of two thousand dollars (\$2,000.00).

A. C. BRADLEY, *Justice.*

Memorandum.

1901, July 31.—Appeal bond filed.

15

Order Extending Time to File Exceptions, &c.

Filed in Open Court September 9, 1901.

In the Supreme Court of the District of Columbia.

In the Matter of VIRGIE LEE DOUGLASS and GRACE KIMBALL DOUGLASS. No. 307. *Habeas Corpus.*

Upon motion, it is, this 9th day of September, A. D. 1901, ordered that the time for presenting the bill of exceptions be, and the same is hereby, extended until the 15th day of October, A. D. 1901, and that the term for signing the same be, and is hereby, extended thirty days from the close thereof.

It is further ordered that the time for filing the transcript of record in the Court of Appeals be, and the same is hereby, extended until the 31st day of October, A. D. 1901.

T. H. ANDERSON, *Justice.*

I consent to the above order.

H. B. MOULTON,
Solicitor for Petitioner.

16 *Order Extending Time for Signing Exceptions.*

Filed October 14, 1901.

In the Supreme Court of the District of Columbia.

In the Matter of VIRGIE LEE DOUGLAS and GRACE KIMBALL
DOUGLAS. *Habeas Corpus*. No. 307.

Upon motion, it is, this 14th day of October, A. D. 1901, ordered that the term be further extended to the 30th day of this month for the signing of the bill of exceptions in this case, and that the time for filing the appeal in the Court of Appeals be, and is hereby, extended until the 15th day of November, A. D. 1901.

A. C. BRADLEY, *Justice*.

In the Supreme Court of the District of Columbia, October 30, 1901.

In re VIRGIE LEE DOUGLASS and GRACE KIMBALL DOUGLASS.
No. 307. *Habeas Corpus*.

Now comes here the petitioners, by their attorney, H. B. Moulton, Esq., and presents to the court their bill of exceptions to the rulings of the court taken at the trial of this cause, and prays that the same may be signed, sealed, and made a part of the record, which is done accordingly, *nunc pro tunc*.

17 *Bill of Exceptions.*

Filed October 30, 1901.

In the Supreme Court of the District of Columbia.

In the Matter of VIRGIE LEE DOUGLASS and GRACE KIMBALL
DOUGLASS. No. 307. *Habeas Corpus* Proceedings.

Be it remembered that the trial of this cause came on for hearing on the evidence produced before Mr. Justice Bradley on the 29th day of July, A. D. 1901.

Thereupon the petitioner was produced as a witness on her own behalf and she testified as follows: That she was the petitioner in the cause; that her name was Minnie Bibb, and she resided at 900 C street southeast, and had been living there continuously since 1898, and was at said place a little while before she went to Savannah, Ga.; that she is the mother of Virgie Lee Douglass and Grace Kimball Douglass, the children mentioned in the petition; that they were born September 11, 1890, and will be eleven (11) years old next September; she further testified in the following manner:

Q. State in your own way what portion of time these children

have been with you. A. When I was married I was with my mother and I remained with her for several years—two or three years—and then came on to Washington. I went in the spring of 1892 to stay with my father and I stayed with him until about November, 1893. Then I went to Baltimore and went to house-keeping.

Q. You say you lived with your mother two or three years? A. Yes, sir.

Q. Did you have your children with you then? A. I was 18 with my mother and the children were with me at my mother's house.

Q. Then you left there and went where? A. I went to house-keeping for myself.

Q. Where did you go then? A. I moved on Lexington street, in Baltimore. My home was very disagreeable and I went there.

Q. You took your children with you there? A. Yes, sir.

Q. How long did you remain in Baltimore? A. I remained in Baltimore until October, 1894, when I was called to Savannah, Ga.

Q. Why were you called to Savannah, Ga.? A. To look after my husband's estate.

Q. When did your husband die? A. He died in Savannah in July, 1894.

Q. Why did you have to go to Savannah? A. He left a small estate down there which required my attention.

Q. When you went to Savannah what did you do with the little girls? A. When I went to Savannah in October, 1894, that winter and the next spring—which was the winter of 1894 and the spring of 1895—I left them with my mother, who was living here then on E street northwest. They remained with my mother from the fall of 1894 until the following spring, when I returned from Savannah, and I took the children from Washington over to Baltimore and remained there until the following election day, when I was required to go to Savannah again, when I took one of the children with me and left the other with my sister, Mrs. Dryden.

19 Q. How long did the child remain with you down there?

A. I did not remain down there any longer than I could possibly help because the climate was bad and I was not acquainted down there, and I was lonesome and homesick. I used to come here whenever I could. I used to come up in the spring and fall and any other time. I could not stand it any longer down there.

Q. You brought your children back with you to Washington? A. Yes, sir; I brought them back. As I have said, I came back and staid in Baltimore until election day, and then I took one of the children to Savannah, the other I left with my sister, Mrs. Dryden, who sent her down to me at Savannah by steamboat.

Q. How long did you have both of them down there with you? A. I had them off and on, and the time they were not with me they were with my sister here in the country, and from the fall of 1894, when I went to Savannah, in October, from that time until my

mother had them, up to 1898, she did not have them any more. She just had them the winter and spring of 1894-'95, and I had them off and on with me in Savannah, with the exception of short visits to my sister.

Q. When was it that you finally returned to Washington? A. I returned to Baltimore in, I think, May, 1897.

Q. 1897? A. Yes, sir; and I thought probably I would be able to remain there, but I did not do so. I remained there until
20 about October or November following. Then I had to go down to Savannah again. I staid down in Savannah that winter and spring and all the summer, I believe, and in the meantime she had the children with her, and then I came back.

Q. Who do you mean by "she"? A. My sister Kate.

Q. Not your mother? A. No, sir. She never had them after the fall and spring of 1894-1895—the winter and spring. She never had them again until September, 1898, since which time she has had them continuously, with the exception of summers, which they would spend with my sister, Mrs. Dryden, in the country.

Q. They were not with your mother again until 1898; all the rest of the time they were with you? A. Yes, sir; with me and my sister, Mrs. Dryden.

Q. In 1898, when you came to the city, did you take your children or they? A. I talked it over with my father. He was sick and about 75 or 76 years old and had been used to being quiet, and he told me that, the children being noisy, he did not think he could stand them. That was the only reason why I wrote them to remain with their grandmother.

Q. How long did you remain with your father? A. I remained with him from September, 1898, until he died, which was February 17, 1900.

Q. You committed the children to their grandmother during that time? A. Yes, sir.

Q. During any portion of this time did you provide for
21 your children? A. I always gave them their clothing, with the exception of their shoes and stockings. I always manifested a motherly interest in them when it was possible to do so.

Q. Did you ever pay any board for them? A. Yes, sir; when I was able to do so.

Q. Has any controversy recently arisen between your mother and Mrs. Olerichs, one of the respondents, and your sister, Mrs. Dryden? A. Yes, sir. Since my father's death, in February, 1900, we have not been on very friendly terms—my sister, Mrs. Dryden, and the rest of the family.

Q. Was Mrs. Dryden appointed executrix of your father's will? A. Yes, sir.

Q. There was some controversy about that on the part of your mother and Mrs. Olerichs? A. Yes, sir.

Q. Since that has occurred have you been permitted to see your children? A. It was all very disagreeable to me whenever I went down there, and I never visited them after that. They never came

to see me, and I never went to see them, but I always used to see my children at the school.

Q. It was so unpleasant at your mother's home that you did not go there? A. Yes, sir.

Q. Did these respondents let the children come to see you? A. They have never been in my house once in two years. They
22 were up there when my father died. He was not buried from my house. He was buried from Mr. Beall's house. They have never been up there since that time.

Q. Is that your little daughter there (indicating)? A. Yes, sir; that is my little girl.

Q. Your youngest? A. Yes, sir.

Q. Is your husband in court? A. Yes, sir.

Q. Where is he? A. He is sitting back there (indicating).

Q. The gentleman with the black mustache? A. Yes, sir.

Q. What kind of a home have you where you live? A. A pleasant home or otherwise? A. It is very pleasant. We try to make it so.

Q. Have you a piano? A. Yes, sir.

Q. Is there a school near where you live? A. Yes, sir; within a square.

Q. Are there any churches near you? A. Yes, sir; the little girl goes to a Baptist church, just a square from our house.

Q. And your husband is willing to have your children with you? A. Yes, sir; he is very anxious to have them.

Q. He is in business here, you say? A. Yes, sir.

Cross-examination.

By Mr. BAKER:

Q. What business is your husband in? A. He is the proprietor of a barber shop.

23 Q. What was the name of your first husband? A. John Douglass.

Q. You never lived with him at all, did you? A. Yes, sir; I did leave him a short time after we were married.

Q. How long? A. It would be impossible to state exactly, but about a month. He was a Roman Catholic and I was of a different faith. It was his desire and wish to keep our marriage a secret.

Q. Were you not married in the Roman Catholic church? A. No, sir; we were not. If we had been it would have been all right.

Q. Where did you live? A. I lived in Baltimore.

Q. You say you lived together a month? A. I did not say we lived together. I said I lived in Baltimore.

Q. I say, did you say you lived with him a month? A. I was with him that time.

Q. Were you not living with him at the time the children were born? A. No, sir.

Q. Where were you living then? A. With my mother.

Q. And who provided for your children? A. My father.

Q. Did your father give money directly to you for the children?

A. Yes, sir.

24 Q. Did your mother look after the children? A. Well, I was in the same house with her.

Q. Did she not take care of the children from the time of their birth? A. No, sir; she did not.

Q. Is it not a fact that they have always called her mother? A. No, indeed; they have called her grandma. They have called me mama.

Q. Have the children ever called you mama? A. Always, yes, sir; but they have been warned not to do so; that I was not their mother.

Q. How do you know they have been warned? A. They have told me so.

Q. When did they tell you so? A. Oh, a number of times.

Q. When, for instance? A. They told me last October, and any time at all when it would occur to them—when they were cautioned. They said, "We were told not to call you mother; we were told to call Aunt Jess mama, and you Minnie."

Q. Is it not a fact that they always called your mother mama? A. No, sir; I do not remember their calling their grandmother anything but grandma.

Q. How long did you live in your mother's house? A. Several years, as I stated before.

Q. And your mother helped to take care of the children? A. Yes, sir; she did.

Q. Did you yourself furnish anything for the children?
25 A. My father gave me a small monthly allowance. It was not much, it is true, but we managed to get along on it.

Q. Did your mother at one time buy milk for the children? A. There was a cow bought, but it was not for the children any more than for the rest of the family.

Q. When did you first leave your mother's house and take your children with you, as you say? A. I left there in September, I think it was, 1892. I went to live then with my sister, Mrs. Dryden, and in the spring of 1893 I came here and lived with my father.

Q. How long did you live with Mrs. Dryden? A. A few months; I could not tell exactly.

Q. Did you have the children with you then? A. Yes, sir; I took the children with me.

Q. Did your mother go with you? A. To Mrs. Dryden's? No.

Q. After you left Mrs. Dryden's where did you take the children? A. I brought them over here and remained with my father; it was in the spring of 1893, I think. I remained with my father until the fall of 1893.

Q. And you had the children with you? A. Yes, sir.

Q. Did your mother come with you? A. No, sir; she was living in Baltimore at that time.

Q. Did you go to your mother's house any more? A. I never went back.

26 Q. Did the children ever go back? A. They visited there from time to time.

Q. Is it not a fact that they lived there and visited you from time to time? A. No, sir; after I left my mother's house in 1892 I took them with me.

Q. After you left Savannah did you not tell your mother that you had to take them back there and have a guardian appointed? A. No, sir; there was no question ever brought up about a guardian.

Q. But you did take them in court down there? A. No, sir; not in Savannah; it was not necessary.

Q. Did your husband leave an estate? A. He left a small estate. It was a year's support, as the court called it. He was very heavily involved in debt.

Q. Did you derive anything at all from your husband's estate? A. Yes, sir.

Q. How much? A. \$1,550.00.

Q. Did the children get anything? A. I provided for them.

Q. I mean did any of that belong to the children? A. No, sir; I got what the court called a year's support, and I could get no more.

Q. You did not get anything for the children at all? A. No, sir; I merely got a year's support for myself and the children.

27 Q. When did you come back from Savannah? A. I used to come back quite often.

Q. Did not your children make short visits down there and then come up here? A. No, sir; they staid with me except for short times when I left them here.

Q. Did you always have the children with you in Savannah? A. I would not say I always had them, but the greater portion of the time I did.

Q. Now, tell us (this is very important) how much of the time did you have the children with you in Savannah. A. Nearly all the time.

Q. You met Mr. Bibb in Savannah, did you not? A. Yes, sir.

Q. And you used this money to buy the present barber shop he has? A. No, sir.

Q. To set him up in business? A. Not at all, sir; I had the barber shop long before I ever saw Mr. Bibb.

Q. You say you own a house here in Washington? A. I was left a house when my father died, under his will.

Q. Do you pay any rent for that house now? A. Parties are occupying the house. I do not live in the house.

Q. You are not in the house? A. No, sir; it is rented.

Q. Are you in one of those houses that your father left? A. I am in one of them.

Q. Do you pay any rent for that house?

28 Mr. MOULTON: One moment.

The COURT: That is irrelevant.

Q. When did you return from Savannah? A. You mean the last time?

Q. Yes. A. In September, 1898.

Q. Between 1894 and 1898 where were the children? A. They were with me, and when they were not with me they were with my sister, Mrs. Dryden.

Q. You are positive about that? A. Yes, sir; positive.

Q. Since 1898 the children have not been with you at all? A. No, sir.

Q. What have you done for their support during that time? A. I have clothed them.

Q. Have you paid their board? A. No, sir; the last board I paid for them was in August. I sent some money from Savannah.

Q. August of what year? A. 1898.

Q. What did you send them? A. I cannot tell the amount exactly.

Q. You cannot state the amount you paid your mother altogether? A. No, sir; I could not state.

Q. Was it five dollars? A. I paid the board every month.

Q. How much? A. I used to pay \$10 and \$15 a month. I paid my sister \$15.00 a month when she had them.

29 Q. For one month or half a month? A. At one time I was not able to pay the board, but as long as I was able I paid it. My father gave me a small allowance. It was not large, but still we made both ends meet.

Q. Is it not a fact that you have not expected or desired to have these children until they have received this house under your father's will? A. No, sir; that is not true.

Q. Have the children been with you any time during the last two years? A. No, sir.

Q. Didn't you have one of them down there for a part of a week? A. No, sir; they have never visited me for two years this summer; they never came to my house to visit me, and they have never been to my neighborhood since my father died.

Q. I will ask you again, did you not have one of them down to stay three or four days? A. No, sir; not a day—yes, sir; I will take that back. Gracie, one of the children, was sick and mother brought her up and told me to take her to a doctor, that she had a fever. I said, "Mother, you let her stay here a few days and I think I can bring her around without taking her to a doctor." I gave her nourishing food and milk punches and things like that, and in a few days she was all right.

Q. And then she went back with her grandmother? A. Yes, sir; she went back.

Q. You say you took care of your father? A. Yes, sir; he was living with me for two years prior——

30 Q. Did he not lived in one part of the house and you live in another? A. No, sir; he boarded at my table and I took full charge of him.

Q. Will you look at these letters and this postal card and state whether they are in your handwriting? (Handing witness papers.) A. (Examining.) No, sir; this is not mine.

Q. (Handing witness a paper.) Is that your handwriting? A. I think this is. I do not see what this has to do with the case.

Q. I ask you if that is your handwriting. A. It is.

Q. And you say that (indicating) is not? A. No, sir; I never wrote that.

Q. Are those your initials down there (indicating)? A. No, sir; You see this last initial (indicating) has been marked over by some one else. It was a "D," but it has never been marked over.

Q. You did not write this postal card? A. No, sir; I did not.

Q. I will ask you again if it is not a fact that you lived in one portion of the house, and that your brother lived in the other portion and took care of your father. A. That my brother lived in the same house with me?

Q. Yes. A. Never; he never did.

Q. Your brother never took care of your father? A. He never lived in the same house with me, and never looked after my father.

31 Q. I said took care of your father. A. No, sir; never.

Q. After whom were the children named? A. They were not named after anybody in particular. It was a hard matter to choose names.

Q. What are their names? A. Gracie and Virgie Douglass—Grace Kimball Douglass and Virgie Lee Douglass. Virgie was named after General Lee, of Virginia.

Q. Why was she named Kimball? A. Well, it was just a name like they give nowadays; like some people name them after novel names. It was merely a name that went well with Douglass and with Grace.

Q. Your husband has a business, you say? A. Yes, sir.

Q. Where is his place of business? A. No. 1203 E street N. W.

Q. What is his income?

Mr. MOULTON: I object to that.

Mr. BAKER: Your honor is to decide what is best for these children, and this lady has no income of her own, as she says. She said she received fifteen hundred and some odd dollars from her first husband's estate, and she has an interest in a house, but what we desire is to ascertain whether or not she is capable of taking care of these children. She has testified that her husband is ready and willing to take care of them.

The COURT: The witness may answer the question.

A. It is in the neighborhood of \$20.00 a week.

Q. He has a shop of his own? A. Yes, sir.

32 Redirect examination.

By Mr. MOULTON:

Q. Just one question before you leave the stand. At the time counsel was asking about your financial resources or income did you not fail to remember—do you not have an income of your own

from your uncle's estate? A. Yes, sir; I had forgotten that. My uncle left each one of his brother's children, one of whom was my father, \$1,800.

Recross-examination.

By Mr. BAKER:

Q. You do not claim to own any other house but the one you received under your father's will? A. No, sir.

The court here took its usual noon-day recess.

Thereupon CATHERINE B. DRYDEN was duly sworn as a witness for the petitioner, and she stated that she was the sister of the petitioner, and that Mrs. Rachael Ann Beall was her mother; that she is well acquainted with the family; that she remembers the birth of the children in September, 1890, and that the then Mrs. Douglass lived with her mother until the fall of 1892, when she went to live with witness on Carey street, in Baltimore.

Witness, being further interrogated, testified as follows:

33 Q. You say in 1893. What time was it that you and your sister, Mrs. Bibb, came here with the children? A. In the spring.

Q. How long did she remain here then with the children? A. She remained here all the time until October, 1894, when she went South.

Q. Did she have the children with her? A. No, sir; she left them on E street with my mother.

Q. What part of the time were the children with her and what part of the time were they with her mother in the fall of 1894? A. They were with her all the time—well, I have forgotten and cannot place it now, but it was in 1894, and I know that in 1895 I had the children with me and Minnie had them with her in Baltimore.

Q. In Baltimore? A. Yes, sir; on Saratoga street; in Baltimore.

Q. Do you know when her husband died? A. I did not know it until two or three months afterwards.

Q. About the time of the death of her husband what did she do; shortly after the death of her husband did she go away from Washington? A. She went down South in October, 1894, and she came back again.

Q. What did she do with the children when she went there? A. She left them with my mother, on E St.

Q. When did she come back? A. In 1895; then she went to Baltimore.

34 Q. In Baltimore—where were the children then? A. She took the children with her. She took them with her to Baltimore and staid until November—election day—and she had to go South again and took one of the children with her and I took the older one, Virgie, with me.

Q. Do you know how long she remained down South at that time—

how long did this child remain with you? A. The following February I sent the child down to her.

Q. Then she had both of them down South? A. Yes, sir; and she staid there quite a while and came up again in 1897 and moved to Baltimore.

Q. Where were the children then? A. She had the children with her.

Q. That was in 1897? A. Yes, sir; in 1897.

[Mr. BAKER: I object to the witness looking at the paper she holds in her hand.

The WITNESS: I have not looked at the paper. I am simply collecting my mind.]*

Q. How long did she remain in Baltimore then—or where did she next go with the children? A. She came up on a visit first before she moved to Baltimore. In 1896 my mother was seriously ill at a place here in Washington called Tavastock flats. Then I took the children in 1896, in the fall, into the country with me. I kept them the fall of 1896 and the winter and spring of 1897, my sister paying me \$15.00 a month while I had them.

35 Q. As board? A. Yes, sir.

Q. That was while she was a widow, was it—after her husband died? A. Yes, sir; she had not married then.

Q. Now you have traced her movements down to 1897? A. That was 1896, before she moved to Baltimore. Then she came here in the spring of 1897, and moved to Baltimore, on Mulberry street.

Q. And took her children? A. Yes, sir; she had her children with her, and I did the sewing for them.

Q. You are quite certain of that? A. I am positive.

Q. Do you know how long she remained in Baltimore with the children? A. She did not think she had to go back any more, but she had left the barber shop down there, her business, with a man who was not exactly treating her very well, and she had to go down and take care of it. Then I had the children with me. She did not take them back to Savannah.

Q. Where were you living at that time? A. At my country house at Relay, Baltimore county.

Q. Do you live there now? A. Yes, sir; I had them with me, and then she came back in 1898 and took her children.

Q. What time in 1898 was that? A. I believe it was in the spring; it might have been the fall; I cannot remember, but I know in 1898 she went to live with my father at 9th and C streets.

Q. Was your father sick at that time? A. Yes, sir.

36 Q. Do you know what she did with the children then, when she went with your father? A. When I had the children there during that summer in the country, I was going to New York and I gave the children back to my mother that summer. Mother has had them ever since, except the summers when they have visited me in the country—excepting this past summer.

Q. That is, since the summer of 1898? A. Yes, sir.

Q. Do you know where your sister, Mrs. Bibb, lives? A. No. 900 C street S. E.

Q. Have you visited her home? A. Frequently; every time I come to Washington.

Q. How does she live—what are the environments of her home; are they comfortable? A. Yes, sir; and she can have them more so, but she expects to move every day.

Q. But she has a nice place? A. Yes, sir; her home is very nicely furnished—everything is nice about it, and they live in great peace.

Q. With her husband? A. Yes, sir.

Q. Do you know whether or not she has made any effort to get her children? A. Oh, yes, sir; I remember one instance when I heard my mother say she could never have them again.

Q. I do not care to bring in anything that is unpleasant if I can avoid it. I just want to ascertain what you know about her making application to get her children and whether she was permitted to have them or not? A. Yes, sir; she has made an effort to get them.

Q. What do you know about her providing for her children other than when she was boarding with you—about her paying any board to their grandma? A. I know that Minnie paid for the children. Of course it was a small amount, and then a large amount. When she could not pay in money for them—the last payment was \$2.00 in mattresses and one of the last payments was a two-dollar bill. She gave them two white-hair mattresses—forty pounds.

Q. Do you know of her making an effort to get her children recently? A. Yes, sir; mother has asked her to let her keep them until they were fourteen years old.

Q. Is your mother willing to give them up? A. Well, no; I do not think she is.

Q. Is Mrs. Olerich willing to give them up? A. No, sir.

Q. Do you know whether or not they have refused to let her have her children? A. Yes, sir; they have.

Q. Now, speaking of Mrs. Bibb's home, what would you say of her as being a good and affectionate mother to her children? A. Decidedly she is in every sense of the word competent—in the full sense.

Q. What do you say as to her being a good, upright woman? A. Yes, sir; she is.

Q. What would you say as to their ability to take care of the children, provided they have them? A. Fully.

38 Q. They are fully able to provide for them? A. Yes, sir.

You know, they are the only children the three sisters have, and we have all thought the world of them, so that they are sort of my daughters too, almost. I have had them with me a great deal, and, of course, I expect to come into another house, and that will make two houses that those children will get.

Cross-examination.

By Mr. BAKER:

Q. You are married, I believe? A. Yes, sir.

Q. Where do you reside? A. At Relay, Baltimore county, Maryland.

Q. Does your husband live there? A. No, sir. I have not seen my husband for five years. He is a drunkard. My divorce is pending.

Q. You say your divorce is pending? A. Yes, sir.

Mr. MOULTON: I do not see the relevancy of that.

The WITNESS: There is nothing to hide.

Q. You say these children are like the children of all of you?

A. My sister and I——

Q. You have children, have you not? A. No, sir.

Q. Have you not a child? A. No, sir.

Q. You had a child, did you not? A. The child died when it was ten days old.

Q. You do not speak to your mother, do you? A. My mother does not speak to me.

39 Q. Is it not a fact that you met your mother out here in the hall the other day and passed her by without speaking to her? A. My mother called me a fiend.

Mr. MOULTON: That is not what he asked you.

A. I did not see mother. I had hold of one of the children, talking to her, when mother came up and asked me to release the child, which I did. I did not see my mother until she addressed me, and then I had no time to speak to her. But I would have spoken to her.

Q. Your husband is Mr. Dryden? A. Frank Dryden.

Q. He had a child, did he not? A. A little girl, about 16 now.

Q. Did she ever live with you? A. Yes, sir.

Q. And the Humane Society in Baltimore took her away, did it not? A. No, sir; on my oath, no, sir.

Q. You say that these children have lived with you a part of the time? A. A great deal of the time; fully as much as with my mother.

Q. Where? A. They were with me in 1892, with their mother. I attended to their wants and did their sewing. They were with me in 1893, the spring, summer, and fall. I did their sewing. They were with me in 1895, and they were with me pretty much all the time, except a very few weeks between.

Q. Have they been with you since 1895? A. No, sir; their mother took possession—did you say 1895?

40 Q. Yes. A. In 1896 and 1897, I think. The fall of 1896 I had them with me in the country.

Q. In 1897 did you have them? A. I had them in the spring of 1897, and their mother took them in 1897, and I gave them up in 1898.

Q. When you have had them where did they live? A. In 1892 I had them on Carey street, Baltimore, and in 1893 I had them with my father, and in 1895 and '96 I had them in Baltimore county.

Q. That place is at Relay? A. It is about a mile from Relay at a place called Otney—Glen Otney.

Q. Who constitutes your family there? A. I used to have the whole Beall family on me in the summer.

Q. Anybody else? A. During the winter time I had the children, of course, and if my sister was not with them my mother followed.

Q. Is Mr. Reardon there? A. I have three boarders—Mr. Reardon and two others. In August I have an opening for fifteen more engaged. It is a country boarding-house.

Q. Have you or not any profession? A. No. I am a dress-maker.

Q. You are a singer, are you not? A. Yes, sir; I travel with Weber and Fields in vaudeville.

Q. You have been on the variety stage? A. Yes, sir;
41 that is it—vaudeville. I would be with them now if it was not for my health.

Q. Is there a lady by the name of May Johnson who lives with you? A. Yes, sir; she is a sort of companion. I was with her when her mother died, and she left her in my possession; she is a young girl.

Q. Is she also an actress? A. I decline to answer that. She is not an actress. I do not see how she comes in, though.

Q. You say that Mr. and Mrs. Bibb are able to take care of the children? A. Decidedly so.

Q. What do you know about their income? A. He averages about \$20 a week, but I have known him to make \$28.00.

Q. How do you know that? A. Because they count their money in front of me and they discuss their business.

Q. You say the grandmother has refused to give the children up? A. Yes, sir.

Q. Did you ever hear her refuse? A. Yes, sir.

Q. When? A. I cannot tell the date or anything of that kind, but she said she was not going to give them up and asked to have them until they were fourteen.

Q. How long ago was that? A. I do not know, but it was since my father's death. He has been dead a year and a half.

Q. How often have you seen your mother since your
42 father's death? A. She used to come up regularly for her money until she stopped coming.

Q. How often? A. From the time he died until last January, 1901.

Q. Mrs. Bibb, in her petition, says she is the owner of a house in fee-simple. Did you not file an answer in court in which you said that Mrs. Bibb was ready to pay rent for that house? A. She would have paid rent a long time, but Mr. Beall has one, too, and is not paying rent for it.

Mr. MOULTON: I will say to counsel that Mrs. Bibb is not living in the house that belongs to her, but the one that you have (to the witness).

The WITNESS: The one that my father left me. It is in litigation, and Mr. Beall has the one that belongs to the twins.

Mr. BAKER: There is no rent being paid.

Mr. MOULTON: Mr. Beall is living in the one that these two children own.

The WITNESS: Yes, sir.

Mr. MOULTON: And he is paying no rent for it.

The WITNESS: No, sir.

By the COURT: From whom is the property derived?

A. From my father.

Q. And by his will the house is left to you?

A. He left nine children nine houses—each got a house.

By Mr. MOULTON:

Q. That is, each of the grandchildren and each of the children got a house.

The WITNESS: Yes, sir.

43 Q. And for those houses you are paying a rent to your mother of \$30 a month? A. Yes, sir.

By Mr. BAKER:

Q. But for which you do not pay any rent? A. For which I do when she comes to get it, and which I have paid until this litigation.

By Mr. MOULTON:

Q. There is litigation pending which is making it unpleasant?

A. Yes; that is making it very warm.

Thereupon Mrs. F. C. WEDDING was produced as a witness, and, being duly sworn, testified as follows: That she was acquainted with the parties to the suit, having known them for twenty (20) years, if not longer, she having lived next door to them at various times, living next door to Mrs. Bibb, and her relations with Mrs. Bibb were most friendly and courteous at all times; that Mrs. Bibb is a most affectionate and kind mother, and her house was quiet and pleasant and was surrounded with everything that could make it pleasant, it being furnished in a very nice and pleasant manner, it being a home of refinement; that in 1892 and 1893 Mrs. Bibb lived in a house adjoining witness, and at that time she had the children with her; that her attention was attracted to the children on account of the fact that they were twin babies; that she has known Mrs. Bibb from that time down to the present time, meeting her occasionally.

On cross-examination witness testified that she had not seen Mrs. Bibb since sometimes during the summer; that she lived
44 next door to them in Washington in 1892 on Ninth street; she was living with her father and sister; that the two in-

fant children lived next door for some time; that witness, being closely occupied with an invalid mother, could not remember the exact time, but thought that it was months or about a year; that she continued to live in that house four or five years; that the children were not always there, the children being at different times with their mother and their grandmother. Witness thinks she saw Mr. Douglass once, but may be mistaken. That the witness has not seen the children for a long time, not for six or seven years; that witness was last in the house at Mr. Beall's funeral, which was about eighteen months ago.

Thereupon MARY A. BRAUGH was produced as a witness on behalf of the petitioner, and, being duly sworn, testified that she lived at 239 Ninth street, southeast within a few doors of Mrs. Bibb's residence, and that she had a family of three children; that her husband was a tailor, and that she has been acquainted with Mrs. Bibb for three years this coming November; that her home is pleasant and is furnished comfortably, and that Mrs. Bibb is a good, upright, and motherly lady, and kind-hearted; that she knows Mr. Bibb and he seems to be devoted to his family and is an industrious man.

On cross-examination witness testified that she rents a house from Mrs. Dryden. She had not known Mrs. Bibb until the day she went to rent the house; that she sees Mrs. Bibb when she goes to pay her rent; that she first paid the rent to the father of Mrs. Bibb, but now she pays it to Mrs. Dryden, or Mrs. Bibb when Mrs. Dryden is not
45 at the house; that Mrs. Dryden is frequently there; that she makes calls sometimes when she goes to pay the rent; that what she knows of Mrs. Bibb is within the last three years, and besides the interviews before spoken of Mrs. Bibb has visited her house.

Thereupon petitioner closed her case.

And thereupon, on behalf of respondents, RACHAEL ANN BEALL was produced, and, having been duly sworn, testified as follows:

Q. What is your name? A. My name is Rachael Ann Beall, and I am the grandmother of the children.

Q. Please state in your own way when you first obtained possession of these children, what you have done for them, and where they have been lately. A. They were born in my house, and I had them all the time, except when they would take them on little trips.

Q. When were they born? A. Well, some one else can tell you. It was in September; I do not know exactly the year.

Q. How old are they? A. They are eleven years old, with the exception of one month.

Q. In 1892 it has been stated here that they left you and were taken away. What do you know about that? A. I will tell you. In 1892 there was some trouble with us all in our family and it happened that there was a part of my money taken from me to support this Mrs. Bibb; it was \$20 and I had \$30 left. So she then made

up her mind to go over to Washington, and she stayed there a little while—I think it was in the fall or the summer they went; I could not tell you exactly what month, but it was not many months, 46 and the children were taken sick soon after—I think it was in April—and I went on and nursed them; and as soon as they got better and I was able to take them out in the country home I took them out there and cared for them.

Q. Did Mrs. Bibb go along? A. She was there part of that time.

Q. That was in 1892. Now, in 1893 where were the children? A. I never kept any account.

Q. State when they were ever away from you. A. Only a little while; the times when they chose to come and say they wanted them with them a little while in the country for pleasure.

Q. How long were they down South? A. They were down South, I think, from May until October.

Q. When they came back from the South where were they brought? A. They were brought to my house, and I kept them there until they went to school—one month. I went over and got them in school, and they went a month or so, and then we moved down to H street, where we are now living, and I took the children with me, and they continued their schooling there.

Q. Do they go to school? A. They do.

Q. What grade are they in? A. The fifth grade. They have been going two years.

Q. Do they go to church? A. Every Sunday.

47 Q. What church do you send them to? A. To the Baptist church.

Q. Do you take them? A. Sometimes I take them. They go to the school, and then they go in the evening to the evening church.

Q. What do the children call you? A. They call me mother.

Q. Have they always called you mother? A. Well, just sometimes they say “grandma,” but as a general thing it is mother.

Q. What do they call their mother? A. Minnie.

Q. And what do they call their aunt Jess? A. Jess.

Q. Now, testimony has been given here that you had nothing to do with the children from 1892 to 1898. Is that so or not? A. I have had them all the time except when they would have them, as I told you, a little while when they wanted them for some purpose or other.

Q. Who paid for the children’s clothing? A. I brought a supply, and sometimes their mother would give them and their aunty would give them.

Q. Did anybody ever pay you for the children’s board? A. Not one dollar, to my own knowledge.

Q. Who pays for the children’s clothes now? A. Well, Mrs. Olerich pays now.

Q. That is the daughter who lives with you? A. Yes, sir.

48 Q. You pay for the children’s board at the present time, do you not? A. They live with me and are cared for by Jess (Mrs. Olerichs) and I.

Q. Are you able to take care of them? A. I am, and willing, and would like to take care of them and bring them up self-supporting.

Q. Have you or not ever refused to let their mother see them? A. No, sir; never. I have taken them there and often pushed them over the fence and got them to open the door and go in after them, when I could not get in the other way.

Q. What does Mrs. Olerich's husband do? A. He is a machinist.

Q. Does she live with you? A. Yes, sir.

Q. Is he fond of these children? A. Yes, sir; he takes them out whenever he has a chance, and is very kind to them.

Q. They have no children, I believe? A. None; no, sir.

Cross-examination.

By Mr. MOULTON:

Q. During the time you have been living on H street has Mrs. Olerich been living with you? A. Oh, yes, sir.

Q. She has been with you quite a good many years? A. Always. She never left my home, except for a little while, when she went to Washington, Penna., and staid two years. During that time these little ones were born.

Q. You and Mr. Beall did not live together for some years, I think? A. Well, it was on account——

49 Q. I am not asking you why, but if he did. A. It was on account of the two children and not any will of ours, or that we were willing to separate.

Q. Some of the children remained with you and some with him? A. No, sir; as Mrs. Bibb had no support of her own, my husband took \$20 from me and gave it to her.

Q. Did you have any money? A. My husband gave me \$50 for my support, and after a little while there was a little trouble—half of \$20 was taken for her support.

Q. Was that it, or was it because the daughters got married, and there was no need of saving so much money? A. They were not married. They did not get married for a year or so.

Q. But were they not married, then, at the time he made that change, and was not that the reason he assigned for making the change? A. No, sir; she was married, but her husband did not live with her, and he died soon afterwards.

Q. So that when you speak of taking your money you mean that your husband, instead of giving you \$50, gave you \$30 for a certain period? A. For my support; yes, sir.

Q. And by his will he gives you \$30 now? A. Yes, sir.

Q. The same amount he gave you then is now continued? A. Yes, sir; but I have not received it for some time—not for six or seven months.

Q. Have you asked Mrs. Dryden for it? A. She was there at the country home, and I could not see her, and I went very often.

50 Q. That matter is in controversy, is it not, between you in another branch of this court? A. I was very much pushed to it last summer when I wanted a dollar or so, and she was in the country, and I did not get anything and I have not gotten anything since, up to this time.

Q. Has not Mrs. Bibb paid you? A. She has not paid me for six months.

Q. But she did pay you for a time, though? A. I believe she left one payment there. She said that Mrs. Dryden said she would not pay me any more until the thing was settled.

Q. Until the two hundred and forty odd dollars that you had was accounted for? A. I never had it; it never was collected.

Q. Who did have it? A. The one she appointed trustee.

Q. Who was that? A. I guess you know. It was Everett S. Beall. She drew out and——

Q. I do not care about going any further into that. You say in regard to these children that they were with you most of the time, except such occasions when the others saw fit to take them away? A. Very seldom.

Q. Their mother took them away sometimes, did she not? A. Very little; a few and very short times.

Q. And Mrs. Dryden sometimes. Q. *And Mrs. Dryden sometimes.*

51 A. Well, last summer after school was over she said that she would like to have them out there in the country until their school commenced again.

Q. Well, were they with her? A. They staid out there until August and then she came here to fight and I went out and got the children.

Q. Did Mrs. Bibb ever have them in Baltimore with her? A. They might have been a day or so or a week with her.

Q. Did she ever have them in Washington with her? A. A week.

Q. Did she ever have them in Georgia with her? A. I told you from May until October.

Q. And such time as she did not have them, or you did not have them, Mr. Dryden had them? A. No, sir; I had them, and when I took them into the country I took them there and went and staid all winter. That was before they went to school.

Q. Where do you mean in the country? A. What my husband called his country home at that time.

Q. Tell us where it is. A. It is at Relay.

Q. When you were at Relay with the children, at your husband's home, did not Mrs. Bibb supply you with money to support the children? A. Well, they staid, you know, until school opened. I do not know whether it was a month or a month and a half.

52 Q. You do not understand my question. Did not Mrs. Bibb supply you with money for their support while they were there? A. I told you, you know when you want some one to visit you——

Q. Just answer the question, please. A. Well, that is it. She invited them there and I suppose she fed them.

Mr. BAKER: By "she" whom do you mean?

The WITNESS: Mrs. Dryden. She invited them there and, I think, she fed them while they staid there, until August, when I brought them away.

Q. Do you not know that while they were there Mrs. Bibb supplied the money for her children's support—\$15.00 a month? A. Who to?

Q. To Mrs. Dryden, of course. A. I know nothing about that.

Q. Did you not receive your money from your husband at the some time? A. That he sent me; he sent me \$10 and kept the rest back for the support of the children, I suppose—he did not give it to me—for my support and the children's while I was out there. He only gave me \$10 out of my \$30, and I suppose it was kept back for the support of the children and myself.

Redirect examination.

By Mr. BAKER:

Q. Did you know Mr. Douglass? A. Well, it was such a short time after he was married; I do not believe he staid more than a week; it was not a whole week. They were married at my
53 house without my knowledge. I did not know it.

Q. You did not know anything about it? A. No, sir; I went to bed. The door was shut.

Q. And you say he staid a week and then went away? A. He staid about a week.

Q. He was not living with Mrs. Bibb, then, when the children were born? A. No, sir.

Q. About what time were they married, do you know, and when? A. I never kept an account. They know when it was. It was as much as I could do to take care of the babies.

By the COURT:

Q. At the time those children were born was your husband living with you? A. Yes, sir; and we were on the best of terms. I lived in Baltimore.

Q. I am not asking you about that. A. He came and staid with me about two or three weeks and said it was the best move I ever made to go to Baltimore.

Q. How long after that did he continue to live with you? A. Not for three years, as I say, and finally—I must explain it or you would not understand me—he took away from me all of my support and drove me to the court to get support, and that was the separation only.

Q. When was that? A. That was about five years ago. I cannot tell exactly. My attorney, Mr. Ridout, ought to know.

54 Q. All you have to depend on, then, for support is this \$30 that he has provided for you? A. That is for my support.

Q. Have you any other estate or income except that? A. No, sir; that is all.

Q. What does Mr. Olerich do? A. He is an engineer.

Q. What kind of an engineer? A. Well, he is a regular engineer; he gets \$3.50 a day. He belongs to Local 14, I believe.

Q. Where is he employed? A. I do not know where he is employed.

Q. Is he employed regularly? A. No, sir; not very regularly. He has work now, and has had for some time. He worked down at the library over here and over at the Agricultural Department.

Q. What does he do? A. He attends to machinery. I could not tell you exactly what he does; I never inquired.

Q. You mean that he looks after the machinery that is in the Agricultural Department? A. That is what is on his cap—"Local engineer."

Q. And when he is working, you say he ought to earn \$3.50 a day? A. Yes, sir.

Q. He is not working all the time, is he? A. No, sir.

Q. And he supports his wife and you? A. Yes, sir, and the children.

Q. How long has he been supporting the children? A. Well, they have been married four years.

Q. Then Mrs. Olerichs has been supporting the children
55 for the last four years. Is that what you mean? A. Yes, sir; and put them in the first school, and now they are in the fifth.

Q. The public school? A. Yes, sir.

Q. Did the mother of the children ask you to deliver them over to her? A. No, sir; she told me last fall that she was going to get the children, but she said, "I am not ready for them yet;" and I said, "Minnie, you do not want them. Let them stay with me until they are educated, and then they will go with you, but I want to attend to their education."

Q. Did you tell her you would not surrender them? A. That was the conversation that passed; then she took this step.

Q. Did you tell her or give her to understand that she could not have them? A. Well, that is what I said to her.

Q. Did you mean for her to understand that she could not have them? A. I told her I wanted them myself.

Q. And that she could not have them? A. Yes, sir; I believe I told her she could not have them.

Q. Do you think you have a better right to have them than their mother has? A. I think so.

Q. Why? A. Because I took them from their birth and have had them, as I said, ever since, except when they wanted them as a pleasure to take them around a little, and they were brought back
56 to me and I have cared for them. I bought two cows in the country, and paid \$150 for the home they live in, and take care of them.

Q. When was that? A. That was when they were two years old.

Q. In 1892? A. I suppose it was.

Q. You say they were born in 1890? A. Yes, sir; they were little tots.

By Mr. MOULTON:

Q. Mr. Beall, your husband, was living then? A. They never staid only two weeks at a time.

Q. Did you dictate a letter to Mrs. Bibb on January 23rd—last January—in one of the little girls' room? Q. Did I do what?

A. Did one of the little girls write to Mrs. Bibb for you? A. Yes, sir.

Q. (Exhibiting letter.) Look at that letter and see if that is the letter—have you your glasses with you? A. I do not know; I cannot see without my glasses.

Q. Do you want to take mine and see? A. My lawyer has the paper in his hand.

Q. You may try mine, if you choose? A. Mrs. Olerich can tell as soon as she lays her eyes on it.

Mr. BAKER: You may prove it by Mrs. Olerich.

Mr. MOULTON: I want to prove it by her, if I can. (To the witness:) You say you did write one letter?

A. Yes; one; I do not know whether that is the one or not.

Q. Could you tell if I should read it to you? A. I do not
57 know.

Q. I will read it. See if this is it.

“I suppose you will get her letter before this”—that is, meaning Mrs. Olerich's letter. “Do not notice it. You know what she is when she is mad. Don't buy the children any shoes or rubbers. I get money enough and let her use that”—that is, let Mrs. Olerich use the money you get. “Read that letter with silent contempt”—that is, the letter that Mrs. Olerich sent. “I wish you would get me a yard of plaid”——

A. Oh, no; I asked Minnie for that myself.

Q. Let me read further and see if you did not write this letter, too.

A. I did; I understand it now.

Q. (Reading.) “I wish you would get me a yard of plaid, with yellow in it, to suit this piece. Bring it to school and the children will bring it to me. Tell the children or give them a note for me. When summer comes I can see you often”—— A. Yes.

Q. (Reading.) “I have told the children never to speak of you again to her”—that is, meaning Mrs. Oelrich? A. Yes, sir; I did not want them to carry notes.

Q. (Reading.) “Your loving mother.” “A piece of cotton plaid with bright colors. I would write more but I want to mail it before she comes.” Are you afraid of Mrs. Oelrich? A. No, sir; nor anybody, thank God. I am not afraid of anybody.

Q. (Reading.) “I cannot come out; I am afraid of catch-
58 ing cold. Will see you often when the weather is warm.”

Do you remember that letter now? A. Yes, sir.

The COURT: What is the date of it?

Mr. MOULTON: January 27, 1901.

I offer this letter in evidence:

WASHINGTON, D. C., *January 23d*, 1901.

DEAR MINNIE: I suppose you will get her letter before this. Don't notice it.

You know what she is when she is mad. Don't buy the children any shoes or rubbers or anything.

I get money enough, and let her use that. Treat that letter with silent contempt. I wish you would get me a yard of plaid, with yellow in it, to suit this piece; bring it to the school and the children will bring it to me. I want it for to go with this. Tell the children or give them a note for me.

When summer comes I can see you often. I have told the children never to speak of you again to her.

YOUR LOVING MOTHER.

A piece of cotton plaid with bright colors.

I would write more, but I want to mail it before she comes.

I can't come out; I am afraid of catching cold. We will see you often when the weather is warm.

59 And thereupon JESSIE OELRICH, one of the respondents, was produced on behalf of the respondents, and, having been duly sworn, testified as follows: That she is the daughter of Mrs. Beall and the wife of Charles Oelrich, who is a machinist and a hoisting engineer; that her husband works nearly all the time, and is not allowed to work for less than three dollars per day, and he is working now and has been working for some time; that, his business being outside work, he is often stopped by rain, but he often has work within a house; that she knows the children; and, being further interrogated, testified in the following manner:

Q. How long has your mother had possession of them? A. She has had them all the time since their birth, with the exception of a short time when they went down South. Their father died and the court wanted to see the two minor children. She came up and got them and showed them to the court to get the money.

Q. How many times were they South? A. Once.

Q. How long did they stay? A. They went the 11th of May and came back the 2nd of October.

Q. You have always lived with your mother? A. All the time, except when I went to Washington, Penna. They were not born then.

Q. Since 1890 they have always lived with your mother? A. Always.

Q. Have those children been always with her? A. Always, except maybe once in a while for a week, when she went with them.

Mother cannot remember dates.

60 Q. Who has paid for these children's board? A. I have paid for their support all the time they were with me, and when they went to the country, at my father's country place, my father always kept money back from my mother's income to buy flour and food and send it out on the cars, the time she was there.

He never gave but \$10 a month the whole time she was there, and when she came back she would get her \$30. He wanted my mother to swear that she would never let my sisters have them.

Q. Did you know Mr. Douglass? A. I never saw him in my life; I never saw Mr. Bibb in my life until today.

Q. Did your sister come to see the children often since you have had them, or not? A. She never came to see them at all until my father died and left them that house, No. 246 9th St., and Christmas she came up there with a pair of mit-s and a little pocket handkerchief apiece.

Q. Who has furnished the children with clothes? A. I have furnished them all. Mrs. Bibb came there once; she made one of her dresses over for one of them, and Mrs. Dryden made one of hers over and gave it to them. I did not like to refuse.

Q. Are they going to school? A. Yes, sir; they are in the fifth grade. I have had them promoted twice. They skipped the second and third grades.

Q. Are you willing to take care of them? A. Perfectly delighted. I want to make them self-supporting; want to teach them shorthand and typewriting, and make women out of them.

61 Q. Whom do the children call mother? A. My mother.

Q. And they call you what? A. Jess—always call me Jess.

Q. Your mother and Mrs. Dryden are not on good terms at the present time, are they? A. Well, not at present. She would not give her any money, and she went down there two or three times and Mrs. Dryden said there was nothing coming to her. She said she would not get it much longer; that she would put her in the insane asylum.

By the COURT:

Q. How do you know that? A. My mother told me so.

Q. You were not there? A. No, sir.

The COURT: What the mother said is not competent.

Cross-examination.

By Mr. MOULTON:

Q. You were married to Mr. Oelrich when? A. The 2nd day of October, 1896. I have my marriage certificate in court, if you wish to see it.

Q. You were married in October, 1896? A. Yes, sir.

Q. Was Mr. Oelrich employed at the time? A. He kept a grocery store at the time he married me.

Q. How long did he keep that store? A. He kept that grocery store, I guess, about eight months; we were in Philadelphia then.

Q. Then what did he do? A. He came back to Washington and went to work as an engineer in Myers' feed store.

62 Q. How long did he continue at that? A. I do not know exactly.

Q. It is not true, in point of fact, that your husband was out of work entirely for two years? A. No, sir; I absolutely deny that fact.

Q. Has he not been out of work nearly all this summer? A. No, sir; he has been hoisting all the iron in the Bureau of Engraving and Printing all this summer—the annex—and he worked at the Library before that. He is now working at the Long bridge.

Q. Did not Mr. Oelrich close that grocery store before you were married? A. He sold out and went to Philadelphia.

Q. Before you were married did he not close that store? A. Certainly he did.

Q. Then he was not keeping a grocery store for eight months before you were married? A. He was working at other business for eight months.

Q. Did you not testify that he was keeping a grocery store for eight months when you were married? A. No, sir.

Q. You say for these past several months your husband has been at work? A. He has been at work.

Q. All the time? A. Yes, sir. There was no shed over his engine and they would not put any shed over his engine and he could not work in the rain.

63 By the COURT:

Q. How much of the time has he been working? A. Very nearly all the summer; he has worked on and off. He has not worked steadily for the past six weeks, but he has worked on and off.

By Mr. MOULTON:

Q. This \$30 that goes to your mother, when it is paid, do you get it? A. No, sir; how can I get it? My mother has to live on it.

Q. She lives with you, does she not? A. She does.

Q. Do you own the house that you live in? A. Not exactly; I am trying to own it.

Q. Where is that house situated? A. 1344 H street N. E.

Q. Is it plastered? A. It will be plastered all over when I get the money to pay for it. But I do not intend to have it done until I have the money to pay for it.

Q. Is the house plastered? A. Partly.

Q. How much of it? A. Well, not much of it.

By the COURT:

Q. You know how much of it has been plastered. Answer that question. A. Part of the dining-room—the back dining-room.

Q. Is that all? A. Yes, sir. It does not need to be plastered. I have plenty of fine rugs and fine furniture in it.

64 By Mr. MOULTON:

Q. Is it a brick building? A. Yes, sir; and a very nice one. I would not sell it now, as it stands, for \$6,000.

Q. Where do these children sleep in the house? A. In a very comfortable bed with a hair mattress.

Q. Where? A. On the first floor, in the room with my mother.

Q. Which room is that? A. The front room.

Q. Downstairs? A. Yes, sir.

Q. What is the front of your house? A. 18 feet.

Q. Is not the front floor of your house all one room? A. I have portieres between, certainly.

Q. There are no partitions except the portieres? A. It is a respectable house, though.

Q. I am not saying a word about that. A. But I cannot say as much for Mrs. Bibb's and Mrs. Dryden's.

Q. I am not asking about that—— A. The Humane Society ought to be here. I know what I am talking about.

Q. How many beds are there in that room? A. Two.

Q. Who occupy them? A. My mother occupies one and the twins occupy the other.

65 Q. Is it not true in point of fact that when the roof was put on that house, but before it was finished in any other particular, you put a new roof in there—— A. Since what?

Q. Since the roof was put on? A. I moved in as soon as it was tenantable. I can rent it today if we move out.

Q. Is it not true that when the roof was put on before the house was finished—before the walls were plastered, you moved in there with those children? A. I moved in the house before it was finished, but I did not have to do so. I had several hundred dollars, and I can prove it.

Q. You say you were going to have the house plastered when you got the money. Why did you not have it plastered when you had the money? A. I had to pay for bricks, &c. I did not want to beat anybody out of the money. I was trying to pay for it. I did not want anybody to say it was mine when it was not.

Q. You have not yet completed the house? A. No, sir.

Q. How long have you been living in it in that shape? A. I have been living there very comfortably for three years—very comfortably. I moved to that house from No. 213 E street, but would not have moved as soon as I did except that I had my mother to support and I moved there to get out of debt. I can move at any time. I can move in the northwest and pay the same rent I paid to Mr. Heiskell, \$45. I have the money to pay it.

Redirect examination.

By Mr. BAKER:

66 Q. What is the value of the house in which you live now?

A. I paid \$2,500 for the ground and I could sell it as it stands for \$5,500, and when I finish it I can get about \$7,000 for it. It is a very fine piece of property.

Q. You have a house under the will the same as the others? A. Yes, sir; and I built that house up in the northeast myself.

The COURT: Where is it located? A. No. 1344 H street N. E.

By the COURT :

Q. How many stories has it? A. It has three stories and runs back about 75 feet.

Q. Is it a store and dwelling? A. Yes, sir.

Q. Is it occupied altogether as a dwelling? A. Yes, sir; the store is not finished yet—in fact it is not at all finished. I do not have to live there; I can move.

Q. The lot is 18 feet wide and how many feet deep? A. About 100. It is a very beautiful place, and I want to leave that house to the children—I have no children of my own—and also the house in the row.

(By the COURT:)

Q. Has any demand been made upon you for the surrender of these children? A. No, sir.

Q. Who taught the children to call their grandmother, mother?

A. I do not think anybody taught them. They always called
67 all of us Jess, and Minnie and Kate, but they called their grandmother “mother” and they called me Jess.

Q. They knew perfectly well who their mother was, did they not? A. I suppose they did. They have not lived with her and they have not that attachment for her that they would have if they had lived with her.

Q. Do you know of any one instructing these children to call their grandmother “mother”? A. No, sir; but Virgie went off to school and told——

The COURT: I did not ask you about that. That is all.

Thereupon was produced as a witness on behalf of respondents ALICE WEEDON, who testified that she was a half-sister of Mrs. Oelrich, and that the children have not lived with Mrs. Bibb within the last five years; that she knew that to be a fact; that she went to see Mrs. Beall about once a month and always found the children there, they being with their grandmother.

On cross-examination witness testified that she saw the children about two months ago at Mrs. Oelrich's house; that her father died on the corner of Ninth and C streets, No. 900, where Mrs. Bibb now lives; that she visited him while he was sick, and during the last several or eight months visited Mrs. Oelrich about once a month or once in two months; sometimes like that; that she had always found the children with their grandmother; that they were never with their mother, to her knowledge. She did not know where they were, but that they were always with their grandmother.

68 Thereupon respondents produced MARY AGNES HENDRICKS as a witness, who was duly sworn, and testified that she knew Mrs. Oelrich, and that she had seen the children; that they live just below her; that she knows the old lady to see her, and that the house is a very nice looking house on the outside, but she has never been in the inside.

Thereupon RACHAEL ANN BEALL was recalled and testified as follows:

RACHAEL ANN BEALL recalled.

By Mr. BAKER:

Q. Do you know anything about the present residence of Mrs. Bibb? A. No, sir; I know that my husband lived there; that was his home all the time.

Q. Do you know Mr. Bibb? A. Yes, sir; I may say that I am slightly acquainted with him.

Q. Do you visit there or not? A. No, sir.

Q. Did you ever take the children there? A. I did as I told you, when I pushed them over the fence; I could not get in. She wanted to see them, or at least I wanted to be friendly with her; I had nothing against her. I could not get in and she was taking a rest, so I pushed them over the fence.

By Mr. MOULTON:

Q. Mrs. Bibb was not at home, was she? A. Yes, sir; she was asleep.

69 Q. Do you think that Mrs. Bibb is a proper person to take care of these children? A. Well, I would not like to leave them with her.

Q. Why? A. For a good many reasons. I do not see why I should have to state them.

Q. You do not have to unless you want to. A. I do not think that Mrs. Dryden or Mrs. Bibb either should have the care of the children because one would take them out in the country and, as I might say, they are both one and they would be taken out into the country, and I do not like the surroundings.

Q. Well, what about the surroundings there? A. Well, last summer——

Q. If you know; were you there? A. Take the little girls and ask them.

Mr. BAKER: That is all. If the court please, the children are here, and if your honor desires to examine them we will produce them.

The COURT: I do not care to examine them.

Mr. BAKER: We desire to offer them as witnesses, then.

Mr. MOULTON: I do not know how far these children can testify; I do not know that they ought to be examined at all.

The COURT: That is for counsel to decide.

GRACIE KIMBALL DOUGLASS was thereupon produced, but not sworn, and examined as follows:

By Mr. BAKER:

Q. What is your name? A. Grace Kimball Douglass.

Q. Where do you live? A. At No. 1344 H street N. E.

70 Q. Whom do you live with? A. My grandmother and aunt Jess.

Q. How long have you lived with your grandma and aunt Jess? A. Ever since I was an infant.

Q. Did you ever live with your mother? A. No, sir.

Q. Did you ever go anywhere with your mother? A. Yes, sir.

Q. Where? A. Down South.

Q. You went down South with your mother? A. Yes, sir.

Q. How old are you? A. I will be eleven years old in September.

Q. Do you go to school? A. Yes, sir.

Q. How long have you been going to school? A. About a year.

Q. In what grade are you? A. The fifth grade.

Q. Does your grandmother take good care of you? A. Yes, sir.

Q. And your aunt Jess helps to support you? A. Yes, sir.

Q. Have you a nice home? A. Yes, sir.

Q. Whom do you want to live with, your grandmother or your mother? A. My grandmother and aunt Jess.

71 Q. They did not tell you to say that, did they? A. No, sir.

The COURT: Do not press that too much.

Mr. BAKER: The child is young, your honor.

The COURT: That is the objection to it.

Q. Did anybody prompt you in regard to what testimony you should give here? A. No, sir.

Cross-examination.

By Mr. MOULTON:

Q. How old did you say you were? A. Eleven years old in September.

Q. This next September? A. Yes, sir.

Q. How far back do you remember? A. I do not understand you.

Q. How many years back can you remember—what would be among your first recollections? Where were you when you first recollect events? A. With my grandmother.

Q. Four or five years ago? A. Yes, sir.

Q. Where was she living then? A. I do not exactly understand you.

Q. Where was your grandmother living when you say you first remember? A. On H street.

Q. Where she lives now? A. Yes, sir.

Q. Your first recollection, then, of events related to where you now live, on H street, with your grandmother? A. Yes, sir.

72 Q. Are the rooms in that house plastered? A. No, sir.

Q. They are just brick walls? A. Yes, sir.

Q. Who lives there—how many people? A. Five.

Q. You two children and your grandmother and Mrs. Oelrich and her husband? A. Yes, sir.

Q. Has Mrs. Oelrich ever said anything to you about your mother? A. No, sir.

Q. Did she ever tell you who your mother was? A. Yes, sir.

Q. When did she tell you who your mother was? A. When I was living with her.

Q. Why do you call your grandmother mama sometimes? A. Because my aunt calls her mama.

Q. And you call her the same as your aunt does? A. Yes, sir.

Q. What do you call your aunt? A. Jess.

Q. Has your aunt Jess ever at any time talked with you about your coming down here to the court-house? A. No, sir.

Q. Not a word? A. Not a word.

Q. How did you happen to come down here today? A. She received a letter yesterday by special delivery, and it said to come to court.

73 Q. You have been down here for several days past, have you not? You have been down here before, some other days? A. Yes, sir.

Q. What did your aunt Jess tell you you were coming down here for? Why did she say you were coming? A. I do not know.

Q. Did not your aunt Jess tell you? A. No, sir.

Q. Didn't your grandmother tell you? A. No, sir.

By the COURT:

Q. Tell me what you are here for—do you not know? A. I am here to tell you who I want to live with.

Q. Who told you so? A. I know so.

Q. Who told you so? Tell me who told you so. A. My aunt.

Q. Mrs. Oelrichs? A. Yes, sir.

Q. When did she tell you? A. Two or three weeks ago.

Q. What did she tell you to say? A. She did not tell me to say anything.

Q. What did she tell you about it? A. She told me we all had to go to court.

Q. Did she tell you why you had to go to court? A. No, sir.

Q. Didn't she tell you that your mother wanted you to come and live with her? A. My grandmother did.

Q. When did your grandmother tell you that? A. When the case began.

74 Q. When did the case begin? A. Here lately.

Q. Do you know how many days ago? A. No, sir.

Q. Will you tell me just how the room is arranged in which you sleep? A. We sleep in the front room, as we have always done; me and my sister sleep in the front room with grandma.

Q. Who sleeps in the back room? A. No one.

Q. What is in the back room? Is it fixed up as a bed-room? A. No, sir; we use it as a kitchen.

Q. Are there any doors to the room? A. No, sir.

Q. Where does your aunt, Mrs. Oelrich, sleep? A. She sleeps upstairs.

Q. Do you remember going to Savannah with your mother? A. I remember going down there once, but I do not remember what it was for.

Q. Do you remember being in Savannah with your mother? A. Yes, sir.

Q. Do you remember living with your mother for a while, with your grandfather? A. No, sir.

Q. Do you remember being in the country with your aunt, Mrs. Dryden? A. I remember visiting her.

Q. You do not remember being in the country with her?
75 A. Yes, sir; I remember being there with her.

Q. Why do you say you remember visiting her? A. Because I went there to visit her; I did not go there to live with her.

Q. Did any one tell you to draw the distinction between visiting there and being there? A. No, sir.

Q. How long did you stay with her? A. A month.

Q. When was that? A. Last summer.

Q. How many summers before that did you go there? A. Twice.

Q. Have you lived with your aunt, Mrs. Dryden, any longer than that at any one time? A. I do not remember.

Q. How long did you go to school last winter—the last term? A. About twelve months; I went all the year.

Q. The school year does not last twelve months. What time did you go to school last year? A. In September.

Q. And when did you quit? A. This year.

Q. Did you go to school the whole school year? A. Yes, sir.

Q. How much did you go to school before this past year? A. The whole school year.

Q. How many years have you been going? A. One year.
76 Q. One year? A. Yes, sir.

By Mr. MOULTON:

Q. Do you remember living with your mother in Baltimore? A. Yes, sir.

Q. Do you remember living with your mother in this city? A. No, sir.

Q. Do you remember living in this city with your mother at all? A. No, sir.

Q. Where in Baltimore did you live with your mother? A. On Mulberry street.

By the COURT:

Q. Did you ever hear your grandmother or your aunt Jess say anything about your mother? A. Yes, sir.

Q. What did they say about your going to live with your mother? A. They said they did not think she was a fit person for me to live with.

Q. They told you that? A. They did not exactly tell me. I heard her tell my grandmother so.

Q. Heard who tell your grandmother so? A. My aunt.

Q. Mrs. Oelrich? A. Yes, sir.

(By the COURT:)

77 Q. Did you know that your mother and your grandmother were not on good terms for some reason? A. Yes, sir.

Q. Do you know the reason? A. Because my aunt Kate would not give my grandmother any money.

Q. How long has this unpleasantness lasted between your mother and grandmother? A. About six months.

Q. And you knew of it when it first happened? A. Yes, sir.

Q. When did it begin, the first of the year, in January? A. I do not remember.

Q. That would be about six months or a little over? A. Yes, sir.

Q. Did your aunt tell your sister also that this trouble existed? A. Yes, sir.

Q. Did she tell her why it was? A. Yes, sir.

Q. Did she tell you she wanted you to stay and live with her? A. No, sir.

VIRGIE LEE DOUGLASS was produced, but not sworn, and examined as follows:

By Mr. BAKER:

Q. Where do you live? A. No. 1344 H street N. E.

Q. Whom do you live with? A. With my aunt Jess, Mrs. Oelrich.

78 Q. How long to your knowledge have you been there? A. Ever since I was born, except once when I went to visit Kate and Minnie.

Q. Do you mean your mother and aunt? A. Yes, sir.

Q. When did you go to visit your mother and aunt? A. They took me to visit Savannah, Georgia.

Q. How long were you down in Savannah? A. I do not know exactly how long I was there, because I was right small.

Q. How many years back can you remember? A. Well, I do not remember, but I should think it was a long time.

Q. Do you remember when you went to Savannah? A. I just remember that I went down there.

Q. And when you came back do you remember whom you went to live with? A. Yes, sir.

Q. Whom? A. Grandmother and Aunt Jess.

Q. And you have been with your grandmother since? A. Yes, sir; only when I went to Glen Otney and to Baltimore.

Q. Whom do you want to live with? A. With Aunt Jess and grandma.

Q. How long were you in the country? A. I went there to visit last summer.

Q. Did anything happen there; did anybody hurt you, or anything like that? A. No, sir.

Q. Were you out there with your sister? A. Yes, sir.

79 Q. Did anybody frighten her or hurt her, or anything like that? A. Yes, sir.

Q. Who was it that did it? A. A man by the name of Bill Reynolds.

Q. What did he do? A. He threw a hatchet at her and hit her in the back. The hatchet was loose on the handle and it came off and the handle just struck her in the back.

Q. Did you see it? A. Yes, sir.

(By the COURT:)

Q. Did you see him throw it? A. Yes, sir.

Cross-examination.

By Mr. MOULTON:

Q. How long did you say you have lived here on H street? A. To my knowledge, it has been ever since I was born.

Q. Have you lived on H street as far as you have any knowledge? A. Yes, sir; only when I went to visit Kate.

Q. That is the house where you now live? A. Yes, sir; we used to live up at grandfather's house.

Q. At 900 C street? A. Not 900; I think it is next door to where my uncle lives.

Q. One of the frames in the row that your grandfather owned? A. Yes, sir.

80 Q. Do you remember living in Baltimore with your mother? A. I did not live with her; I visited her. I went there to stay a week, and my grandmother staid there a little while with me and then she and I came home.

Q. How long did your grandmother stay there? A. Just as long as we did. I went on with my uncle and she came a little later.

Q. How long did she stay? A. She came that week that I was there.

Q. I asked you how long she staid. A. She staid as long as I did—a week—and I came home with her.

Q. She stayed a week? A. She came in that week that I was there and stayed that week out.

Q. Did your grandmother tell you that? A. No, sir.

By the COURT:

Q. How long ago was it? A. About three or four years ago.

Q. How old were you then? A. I do not remember.

Q. You do not remember how old you were? A. No, sir.

By Mr. MOULTON:

Q. Was that before you moved on H street? A. Yes, sir; when I lived in one of the frame houses that my grandmother owned.

81 Q. I thought you said you could not remember anything except what occurred on H street? A. I did not tell you that, did I?

Q. You did not tell me that? A. No, sir.

Q. I thought you said you could only remember the things that

occurred—— A. I told you I could only remember one thing, and that was while I was in Savannah; that I went down there.

Q. Where in Baltimore did you live with your mother? A. I went there to visit her on Mulberry street; I do not remember the number.

Q. Who was there when you visited your mother? A. My stepfather and Minnie, and I do not think Kate was there.

Q. Do you mean your aunt Kate? A. I mean Mrs. Bibb, my mother.

Q. Do you remember living here in Washington with your mother? A. No, sir.

Q. Do you remember where your mother has lived here in Washington? A. I know where she lives, but I only went down there once, when she promised to give me a pair of shoes.

Q. Where was that? A. Where she lives now. I do not remember the number.

Q. Then you did live with her down there where she lives now? A. No; she promised to give me a pair of shoes if I would come

down there, and I went down there; my grandmother let me.

82 Q. Then you do not remember living down there a week?

A. I remember going down there to visit her.

Q. When was that? A. Before my grandfather died.

Q. How long ago was that? A. I do not remember.

Q. Was your grandfather sick then? A. No, sir.

Q. That was after your mother came back from Georgia, was it? A. Yes, sir; while I lived on H street.

Q. Did you go down South with your mother first, or was it your sister? A. My sister went first and Kate took me away, and then after a while she sent me down.

Q. When you say Kate you mean your aunt Kate? A. Yes, sir.

Q. Where did she take you? A. She took me on the stage in Cincinnati and Buffalo, and places like that—and Pittsburg.

Q. Then you went down South with your mother? A. Yes, sir.

Q. How long did you stay there? A. I went down there by myself.

Q. I say, how long did you stay down there? A. I do not remember.

Q. Why did you come here today? A. I came down here because——

Q. Just stop and think. A. Because Mr. Lambert and
83 Baker sent a letter to my aunt telling her that we were to come to court today.

Q. Was there any controversy between your aunt and Mrs. Bibb in relation to you? A. I do not know what controversy means.

Q. Well, any disagreement between them? A. Well, she does not speak to Mrs. Dryden, Kate, and Minnie.

By the COURT:

Q. Who does not speak to Minnie? A. My aunt.

Q. Which aunt? A. Jess.

Q. Mrs. Oelrich? A. Yes, sir.

Q. Why does she not speak to her? A. I do not know.

Q. How do you know she does not speak to her? A. Because I heard her say one day that she would not speak to her this side of the grave again, and Mrs. Dryden has said she would not speak to her this side of the grave. That was the day before the examinations at our school.

By Mr. MOULTON:

Q. That was in reply to Mrs. Oelrich's remark? A. I told her when she came down to visit me before examination day, and she said she would not speak to her again on this side of the grave.

Q. That was at your school? A. Yes, sir.

84 Q. When your mother came to visit you in school? A.

Yes, sir; and Minnie said, "I would not speak to her this side of the grave."

Q. Why do you call your mother "Minnie"? A. I always did.

Q. Why have you always called her Minnie? A. Because I do not live with her.

Q. Most little girls call their mothers, "mother." A. Well, it is because I do not live with her and do not have the affection for her as a mother.

By the COURT:

Q. Who told you to say that? A. Nobody.

Q. What it is to have affection for anybody? A. I do not like her to call her mama, because I never lived with her and never had her to look after me, or anything of that kind; only when I visited her she liked me.

Q. When you visited her she treated you well, you say. A. Yes, sir.

Q. What was the longest time you ever visited her? A. I think when I went to Savannah was the longest I ever visited her.

Q. You do not remember after that time? A. I think that was the longest time. It was the longest time I can remember.

Q. Did your aunt tell your mother she was an improper person for you to live with? A. No, sir; she often said it to my grandmother, but never said it to me.

85 Q. She said it so you could hear it? A. She said it low, but I heard it. She said it with the intention of not letting us hear it.

Q. How do you know? A. Because she said it in a low tone—like when she does not want us to hear.

Q. But you were near enough to hear it and you did hear it? A. Yes, sir.

Q. And your sister heard it? A. I am not positive that my sister heard it.

Q. Well, she said she did? A. Who?

Q. Your sister said she did. A. Well, maybe she did; I am not sure of it. We were both in the same room at the time.

Q. When was the last time you went to see your mother? A. This last summer past.

Q. Where was that? A. Out at Glen Otney.

Q. Out in the country? A. Yes, sir; my grandmother let me go out to visit her.

Q. Why have you not been to see her since? A. My aunt used to go out, and she got news of what was going on, and she came out and took me away from Glen Otney, and then my mother came down to the school to see me, but she never came to the house. I do not know why she did not come to the house to see me.

By Mr. MOULTON:

86 Q. Why have you not visited your mother in the last few years? A. I do not know why I have not visited her. We used to go, but she came down to school to see me. After she went away she would stay away so long that we did not think of it. We were playing and enjoying ourselves at home.

Q. Did your aunt Jess tell you not to call her mother? A. No, sir.

Q. You are quite sure she did not? A. I am quite sure. We used to call her Minnie. I would say, "Minnie was down to school today." I would tell them that when I came home.

Q. You are quite sure that your aunt Jess has not forbidden you to call her mother? A. No, sir.

Q. Has she told you that she was not your mother? A. No, sir.

Q. Has she not forbidden your talking to her? A. No, sir; she never did.

Q. Did she not, while you were in the other court-room, forbidden you to speak to her? A. When I was down where?

Q. When you were down in the other court-room, did not Mrs. Oelrich tell you not to talk to your mother and your aunt, Mrs. Dryden? A. What court?

Q. The other end of the court-house? A. Judge Hagner's?

Q. Yes; did she not tell you not to talk to them?

The COURT: Well, let it go.

By Mr. BAKER:

87 Q. You said something about being on the stage with your aunt, Mrs. Dryden? A. Yes, sir. Mrs. Dryden took me there.

Q. Where did she go? A. She used to travel around to different places. I do not remember the names.

Q. What did you use to do? A. She used to dress me in tights.

Q. She did? A. Yes, sir.

Q. What did you do; did you go on the stage? A. Yes, sir.

Q. As an assistant to Mrs. Dryden—did you go on with her? A. No, sir; she would go on with the play; she was in a different part from me. I went on last—I was the last one on.

Q. What did you use to do on the stage? A. There used to be a high box—about as high as Judge Bradley's desk. They used to

have wings and I used to pull the wings and they would flap in that way (indicating).

Q. How long were you and Mrs. Dryden on the stage? A. Quite a number of weeks.

By the COURT:

Q. How old were you then? A. I do not remember how old.

Q. How many years ago was it? A. I do not know. Of course I was not as old as I am now; that has been quite a number of years ago.

Q. Of course you could not have been as old as you are now.

Was it last winter? A. No, sir; it was about four years ago.

88 I have been living with my aunt about three years since then; going on four years now since then.

Q. You have been living there three years? A. Yes, sir; going on four.

Q. Where were you living when your aunt, Mrs. Oelrich, was married? A. When she was married to her first husband?

Q. I did not know she had a first husband. I thought the present was the first one. Were you living with her when she was married to Mr. Oelrich? A. Yes, sir.

Q. How long ago was that? A. That has been four or five years ago.

Q. She said she had been married four years. A. She did? Well, I used to be there when Aunt Jess was sick—when she was in her sick bed—and——

Q. When your grandfather was sick? A. No; my aunt Jess.

Q. Do you remember being at the house where your grandfather lived—living there for a while? A. No, sir.

Q. How long before your aunt, Mrs. Oelrich, was married to Mr. Oelrich was it that you were on the stage? A. That was after she was married, I think. I am not quite sure. I do not know exactly when she was married, because she was married in Philadelphia.

Mr. BAKER: If the court please, that is our case.

Mr. MOULTON: I understood this child to say that her aunt, Mrs. Dryden, dressed her up in tights, and with the permission of the court I would like to recall Mrs. Dryden upon that subject.

89 The COURT: Very well.

Rebuttal.

CATHERINE DRYDEN recalled.

By Mr. MOULTON:

Q. Mrs. Dryden, you have just heard the statement of the little girl. Have you any explanation you wish to make in regard to her being dressed in tights? A. Yes, sir. There was a little girl who was taken ill, and I had Virgie with me travelling—it did not cost anything and relieved my sister of the responsibility of taking

them down South with her—and for ten days—it might have been two weeks—Virgie was dressed as a fairy, with very large wings, just before the curtain went down. There were four or five curtains that went up—kind of leaves—and the child was shown in a little grotto like as a fairy with those large wings. You could hardly have seen her.

(By the COURT:)

Q. How old was she then? A. Five years old.

By Mr. BAKER :

Q. Where was it that she played? A. They persuaded me. I did not want her to go on at first, and to keep my own position I granted their request. We played in New York and at the Auditorium in Baltimore.

Q. Did she play in Washington? A. No, sir; I never played in Washington myself.

90 Q. What was the name of the theatre you played in in New York? A. Webber and Fields', on Broadway.

Q. And where in Baltimore? A. At the Auditorium on Howard street—first-class theatres and lady audiences.

Q. What was the name of the play? A. I do not know now; it was spectacular.

Q. It was a variety show, was it not? A. Yes, sir; I have always been in vaudeville.

Thereupon the testimony was closed.

This is all the testimony in the case.

Thereupon counsel for the respondents moved the court to instruct itself, on the whole testimony, that a sufficient case had not been made out to change the custody of the children, and therefore that the writ be discharged; but the court overruled said motion, and thereupon, for the reason that the testimony showed that the petitioner, the mother, is so situated as to be able to afford her children a comfortable home and support; that by her appearance, her testimony, and her manner of testifying she commended herself to the court as a proper person to have the care and custody of her children; that it appears that Rachael Ann Bell, the grandmother, one of the respondents, has not the pecuniary ability and because of age and growing infirmity has not the physical ability to give them adequate support and proper care and supervision; that the other respondent, Jessie Oelrich, has not sufficient pecuniary ability to properly support them, and by her testimony, her conduct in
91 court, and her demeanor as a witness she has demonstrated her unfitness for such a trust, and by the statement and demeanor of the children it appears that the influence of their aunt, Mrs. Olerich, has been pernicious, and that they need a mother's care and guidance, the court ordered that they be delivered into the custody of the petitioner.

Counsel for respondents then and there excepted; which exception

was duly noted by the court upon its minutes, and the court, this 30th day of October, 1901, *nunc pro tunc*, signs and seals this bill of exceptions.

[SEAL.]

A. C. BRADLEY, *Justice*.

Order Further Extending Time.

Filed November 15, 1901.

In the Supreme Court of the District of Columbia.

In re VIRGIE LEE DOUGLASS and GRACE KIMBALL DOUGLASS.
Habeas Corpus. No. 307.

Upon motion, it is, this fifteenth day of November, A. D. 1901, adjudged, ordered, and decreed that the time for filing the transcript of record in the Court of Appeals is hereby further extended for a period of ten days from this date.

By the court:

A. C. BRADLEY, *Justice*.

92 UNITED STATES OF AMERICA, }
District of Columbia, } ss:

Supreme Court of the District of Columbia.

I, John R. Young, clerk of the supreme court of the District of Columbia, hereby certify the foregoing pages, numbered from 1 to 91, inclusive, to be a true and correct transcript of the record, as prescribed by rule 5 of the Court of Appeals of the District of Columbia, in cause No. 307, *habeas corpus*, *in re* Virgie Lee Douglas and Grace Kimball Douglas, infants, as the same remains upon the files and of record in said court.

In testimony whereof I hereunto subscribe my name and affix the seal of said court, at the city of Washington, in said District, this 13th day of November, A. D. 1901.

Seal Supreme Court
of the District of
Columbia.

JOHN R. YOUNG, *Clerk*.

Endorsed on cover: District of Columbia, supreme court. No. 1146. Rachael Ann Beall *et al.*, appellants, *vs.* Minnie B. Bibb. Court of Appeals, District of Columbia. Filed Nov. 27, 1901. Robert Willett, clerk.

